

PATENT  
Attorney Docket No. 104.0004-03000  
Customer No. 22882

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: ) Confirmation No.: 3765  
David F. Meschan )  
Serial No.: 10/735,343 ) Group Art Unit: 3728  
Filed: December 11, 2003 ) Examiner: Ted Kavanaugh  
For: ATHLETIC SHOE WITH )  
IMPROVED HEEL STRUCTURE )

Mail Stop AMENDMENT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

TERMINAL DISCLAIMER

Petitioner ("assignee") Akeva L.L.C., duly organized under the laws of the State of North Carolina, and having its principal place of business at P.O. Box 2888, Greensboro, North Carolina 27402 represents that it is the only assignee of the entire right, title and interest in and to the above-identified application, Serial No. 10/735,343 filed December 11, 2003 for ATHLETIC SHOE WITH IMPROVED HEEL STRUCTURE in the name of David F. Meschan as indicated by assignment duly recorded in the United States Patent and Trademark Office at Reel 014277, Frame 0957 and is the only assignee of the entire right, title and interest in and to application Serial No. 09/419,641 filed October 18, 1999 (now U.S. Patent No. 6,662,471), for ATHLETIC SHOE WITH IMPROVED HEEL STRUCTURE in the name of David Meschari as indicated by assignment duly recorded in the United States Patent and Trademark Office at Reel 014277, Frame 0957.

Assignee Akeva L.L.C. further represents through its representative that to the best of assignee's knowledge and belief, title to the above-identified application and the United States Patent No. 6,662,471 are in assignee, which is submitting this Terminal Disclaimer.

Akeva L.L.C. hereby disclaims, under the provisions of 37 C.F.R. § 1.321, the terminal part of any patent granted on the above-identified application, Serial No. 10/735,343, which would extend beyond the expiration date of Patent No. 6,662,471

and hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to United States Patent No. 6,662,471, this agreement to run with any patent granted on the above-identified application and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim the terminal part of any patent granted on application Serial No. 10/735,343 that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of Patent No. 6,662,471, as presently shortened by any terminal disclaimer, in the event that Patent No. 6,662,471, expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or in part, is terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term, as presently shortened by any terminal disclaimer.

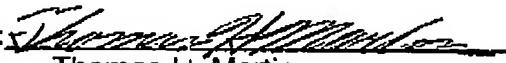
In accordance with the fee schedule set forth in 37 C.F.R. § 1.20(d), the required fee of \$130.00 is being filed with this disclaimer.

If a check for the required fee is not filed concurrently herewith or if there are any additional fees due in connection with the filing of this reply, please charge the fees to our Deposit Account No. 50-1068. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

The undersigned is authorized to act on behalf of assignee Akeva L.L.C.

Respectfully submitted,  
MARTIN & FERRARO, LLP

Date: January 31, 2005

By: 

Thomas H. Martin  
Registration No. 34,383

1557 Lake O'Pines Street, NE  
Hartville, Ohio 44632  
Telephone: 330-877-0700  
Facsimile: 330-877-2030